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RE: Application No. 09/875,553
Response to Office Action Summary dated 10/10/2002

Examiner: Alimenti, Susan C.
Art Unit 3644

Claim Objections

1) It is agreed line 3 of Claim 1 is to be corrected to delete "the" as it appears before "said canister." Line 3 of Claim 1 should correctly read as follows:

"(b) providing an entrance and egress hole in said canister"

2) It is agreed line 4 of Claim 4 is to be corrected to add "the" before the word bottom. Line 4 of Claim 4 should correctly read as follows:

"fitted to the bottom of said pole whereby said pole can be planted in a wetlands area without"

It is further agreed line 5 of Claim 4 is to be corrected to replace the phrase "seepage to the inside of" with "seeping into the." Line 5 of Claim 4 should correctly read as follows:

"water seeping into the inside of said pole chamber."

3) It is agreed line 4 of Claim 5 is to be corrected to delete "the" before the second occurrence of said. Line 4 of Claim 5 should correctly read as follows:

"pole segment to secure to the bottom of said duck nesting house; said top pole segment"

It is further agreed line 8 of Claim 5 is to be corrected to delete "the" before said. Line 8 of Claim 5 should correctly read as follows:

"whereby said bottom pole segment can be permanently planted in shoreline areas and"

It is further agreed line 5 of Claim 5 is to be corrected by adding the phrase "is capable of" before the word sliding. Line 5 of Claim 5 should correctly read as follows:

"is capable of sliding inside the bottom pole segment of slightly larger diameter; stabilizing collars"

Claim Rejections – 35 USC 112

4) I disagree that Claims 1, 4 and 5 are to be rejected as being indefinite. The present invention has proven to be such a problem solver over prior art, both patented and not patented, that I would hate to see it rejected for patent simply because the claims, written by an amateur, do not withstand correct examiner scrutiny. I propose a modification of the claims and request your assistance in writing claims that thoroughly document the novel features of the present invention.

This duck nesting house was built for the purpose of increasing the population of wild migratory wood ducks. There have been two main problems to be solved in this endeavor. The first and most important problem is keeping predators, primarily raccoons, away from the nest during the incubation of the eggs. Second, having a duck nesting house that is inexpensive and easy to maintain so that wildlife advocates, environmentalists and waterfowl enthusiasts could sustain and increase the wood duck population in wilderness areas. The present invention is also meant for use in an urban or suburban environment. Wood ducks will migrate to a neighborhood backyard if there is a pond, river or creek within 1 ½ miles from the nest. Wood ducks have been observed hatching in a hollowed out tree trunk in a city park and then walking the distance of a mile to the nearest pond. Wood ducks are wild migratory waterfowl that some folks will have occasion to see. There was a time when there were sufficient old hollowed out tree trunks for wood ducks to find their own nest. However, as wetlands and old growth forests have been diminished by development of houses and factories, so has the natural environment for the wood duck. With the natural environment of the wood duck being developed for human habitation, the wood duck population has been decimated. Numerous individuals and waterfowl associations have sought solutions to increase the population of wood ducks before the species is completely eliminated.

The present invention was built to solve those problems. Raccoons are notorious predators to the wood duck. Raccoons eat the eggs and eat the baby ducks, or fledglings, before they grow feathers and can fly away. (a) The wood duck nesting house of the present invention was very deliberately designed with a smooth, slippery surface of PVC plastic material to thwart the raccoon. If the duck nesting house were made of wood, the raccoon can very easily use its claws to dig into the wood and claw its way to the nest. Raccoons and squirrels have scaled tree trunks with the same agility. However, the smooth, slippery exterior surface of the present invention makes it impossible for the raccoon to make indentations in the plastic material. The raccoon cannot use its claws to scratch or gouge indentations in the plastic material to use f r

climbing to the n st. By using slippery smooth PVC plastic material, the present invention was designed to stop the natural predator from clawing its way to the nest. (b) The round canister shape of the present inventi n was a deliberate design to thwart the raccoon by denying it any leverage to grasp. There are no corners or edges in the present invention. There are no borders or fulcrums that the raccoon can use to anchor its hind feet while its front paws reach for eggs in a nest. There are no screws or hinges or protuberances of any type on the exterior of the canister. The round contour of the present invention once again denies the raccoon any advantage. The raccoon just slips off the slippery round exterior surface and falls to the ground because it can find nothing to grasp. (c) The prototype of the present invention was built with a distance of 9 ½ inches from the bottom of the duck house canister to the ingress hole. That is a calculated design feature to insure that a raccoon cannot reach from the top of the pole, around the bottom and side of the canister and grab hold of the edge of the ingress hole. The 9 ½ inch distance is too far for a raccoon to reach. Any raccoon that would try to reach the ingress hole would need to let go of the pole, try to hug the slippery surface of the canister, a canister that is 10 inches in diameter, and scamper up a smooth, round surface. That is an impossible task for the raccoon. A raccoon cannot hug a round object with a diameter that large. Those rapacious raccoons that have tried to scale numerous prototypes have just slid off and fallen to the ground. There are currently about a dozen prototypes being tested in various wilderness locations in Minnesota. The prototypes have been in location for two or three annual nesting cycles. To date, not one prototype duck nesting house has been successfully raided by a raccoon, a squirrel or any other predator. Not one. In fact, the egg count after the nesting season has shown that nests routinely produce ten to twelve eggs, which is considered a great success. Of even greater interest is the fact that some locations showed eggshells on the ground, next to the pole, beneath the canister. This suggests that the mother duck assisted the fledglings by peeling back and discarding bits of the eggshell to help the fledgling hatch from the eggshell. Any raccoon or predator would have ingested the entire egg. Observations of the prototype after the nesting period have found the mother ducks in a nearby pond, each leading 10 or 12 little fledglings. The prototype of the present invention has been a huge success over prior art in repelling the attacks from any predators and has dramatically increased the chances to save the wood duck from extinction.

Of equal importance is cost and maintenance of the wood duck nesting house. If that task is made too difficult, then wood duck enthusiasts will soon abandon the endeavor at upkeep of the houses. If it were too difficult or expensive to maintain the nesting houses, the nesting houses would soon deteriorate and be unusable by the wood ducks. Nesting houses made of wood have been previously shown to seriously deteriorate over several years due to the wet and cold weather. Wood will rot and replacing wood nesting houses is costly and time consuming. Nesting houses made of metal have also deteriorated quickly with the wet weather. The expense and time involved in walking through a wilderness area to replace wood or metal duck nesting houses is a serious deterrent to using that type of structure. The present invention solves this problem. The present invention made of plastic material will not rot like wood, nor rust like metal. The PVC material has a much longer life and is therefore

less expensive to maintain, as it will not need to be repaired or replaced as quickly as wood or metal.

In addition to the deterioration caused by weather, neither wood nor metal nesting houses have been shown to provide the most suitable inside nest temperature range for healthy egg development. By setting atop the eggs, the mother duck controls the proper temperature for egg incubation. However, if the climate outside the nesting house heats up, the dark wood or dark metal nesting house will absorb the heat from the outside and thereby raise the temperature inside the nesting area to an unacceptable level that will cook the eggs before the eggs are ready to hatch. The wood or metal nesting house has been shown to be vulnerable to outside temperature changes. The white plastic material of the present invention will not absorb the outside heat, like that of wood or metal, and will therefore more effectively assist the mother duck to maintain the proper temperature inside the nesting area. The testing of the prototypes for inside nesting area temperature range, has shown the PVC plastic material of the present invention to be of superior quality control over the wood or metal nesting houses. The temperature range inside the prototypes for the present invention did not significantly nor adversely increase as the outside temperature increased. The ability of the white plastic material used in the present invention was beneficial over the prior art in not absorbing the increased outside temperature. The white plastic material of the present invention actually facilitated maintaining the proper inside nesting temperature for the incubation of the eggs. This is a significant improvement over the prior art.

The pole of the present invention was also designed to deter predators. The diameter of the prototype of the present invention is 3 inches, much larger than the usual one to two inches of most poles of prior art. This extra wide diameter makes it very difficult for a raccoon or squirrel or other predator to hug the pole and climb. The front and hind limbs of predators cannot easily stretch around a pole of this diameter and climb it at the same time. The pole was designed to make it a strenuous task, if not an impossible task, for predators to stretch their limbs around and climb the pole. The slippery, smooth round surface of the pole also inhibits the ability of any predator to climb the pole. Unlike a wood pole, a raccoon cannot use his claws to gouge indentations in the plastic to assist in climbing the pole. Videotaped observations of a pair of raccoons attempting to climb the pole showed one raccoon actually standing on the shoulders of the second raccoon to gain height on the pole. These two very resourceful raccoons still could not climb the pole of the present invention. The pole was too slippery and too wide in diameter for the predators to use. The pole was designed to do exactly that, thwart the predators. The wide diameter of the pole is an improvement over the prior art.

The present invention provides a pole that is to be planted in a pond or on land. Wood ducks need to nest on or near water, as that is where they will find their food source and shelter. The pole of the present invention is a hollow chamber that is sealed at each end so that water cannot enter into the inside of the chamber. This insures that water cannot leak into the inside of the chamber. Water inside the chamber could